

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LANCE TAYLOR,

Plaintiff,

Hon. Gordon J. Quist

v.

Case No. 1:15-CV-104

J. WAWRZYNIAK,

Defendant.

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**REPORT AND RECOMMENDATION**

This matter is before the Court on Plaintiff's Motion for Preliminary Injunction. (Dkt. #22). Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's motion be **denied**.

Injunctive relief is "an extraordinary remedy which should be granted only if . . .the circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban County Gov't*, 305 F.3d 566, 573 (6th Cir. 2002). To obtain injunctive relief, Plaintiff must first show that he "is being threatened by some injury for which he has no adequate legal remedy." *Dana Corp. v. Celotex Asbestos Settlement Trust*, 251 F.3d 1107, 1118 (6th Cir. 2001). If such is the case, the court must then examine several factors: (1) whether the movant is likely to prevail on the merits, (2) whether the movant would suffer irreparable injury if the court does not grant the injunction, (3) whether a preliminary injunction would cause substantial harm to others, and (4) whether a preliminary injunction would be in the public interest. *See Samuel v. Herrick Memorial Hospital*, 201 F.3d 830, 833 (6th Cir. 2000).

Rather than prerequisites which must each be satisfied, the relevant factors, none of which are dispositive, are competing considerations to be weighed and balanced. *See Six Clinics*

*Holding Corp., II v. Cafcomp Systems, Inc.*, 119 F.3d 393, 400 (6th Cir. 1997); *Michigan Bell Telephone Co. v. MFS Intelenet of Michigan, Inc.*, 16 F.Supp.2d 828, 831 (W.D.Mich. 1998). Ultimately, the decision whether to grant injunctive relief lies within the court's discretion. See *Dana Corp.*, 251 F.3d at 1118 (the "most significant single component" in the decision whether to grant injunctive relief "is the court's discretion") (citations omitted).

Plaintiff initiated the present action alleging a violation of his Eighth Amendment rights arising from an incident that occurred on May 1, 2014. Specifically, Plaintiff alleges that Defendant responded to his refusal to comply with an order to "remove a sheet that was hanging loosely from [Plaintiff's] cell bars" by discharging a chemical agent into his cell. In the present motion, Plaintiff alleges that he was improperly convicted of two misconduct charges, assault and battery and disobeying a direct order, arising from the incident in question. Plaintiff requests that the Court vacate these two misconduct convictions.

The Court declines Plaintiff's request for two reasons. First, a § 1983 civil rights action alleging an altogether different cause of action, is not the appropriate means by which to obtain the relief requested. Plaintiff should instead pursue the matter in the appropriate state forum or seek relief by initiating an action appropriate to the relief sought. Moreover, even were the matter properly before this Court, Plaintiff has failed to establish that the misconduct convictions in question were improper. Accordingly, the undersigned recommends that Plaintiff's motion be denied.

**CONCLUSION**

For the reasons articulated herein, the undersigned recommends that Plaintiff's Motion for Preliminary Injunction, (dkt. #22), be **denied**.

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: November 10, 2015

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/s/ Ellen S. Carmody  
ELLEN S. CARMODY  
United States Magistrate Judge